

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARCY BROWN,

Plaintiff

vs.

FRANKLIN AREA SCHOOL DISTRICT,  
et al.,

Defendants

) Civil Action No. 1:23-cv-240

)

) The Honorable Maureen P. Kelly

)

) ELECTRONICALLY FILED PLEADING

)

) **MOTION TO QUASH SUBPOENAS**

) **FAXED TO COUNSEL**

) **ON AUGUST 22, 2024**

)

) Filed on behalf of Defendants Franklin Area

) School District, Eugene Thomas, Thomas

) Holoman, and Kris Miller

)

) Counsel of record for these Parties:

)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARCY BROWN,	)	Civil Action No. 1:23-cv-240
	)	
Plaintiff	)	
	)	The Honorable Maureen P. Kelly
vs.	)	
	)	
FRANKLIN AREA SCHOOL DISTRICT,	)	
et al.,	)	
	)	
Defendants	)	
	)	
	)	
	)	

**DEFENDANTS'**  
**MOTION TO QUASH SUBPOENAS FAXED TO COUNSEL ON AUGUST 22, 2024**

AND NOW, this 28<sup>th</sup> day of August, 2024, Defendants Franklin Area School District, Eugene Thomas, Thomas Holoman and Kris Miller (collectively, "Defendants") through their counsel, moves the Court for an Order quashing the Subpoenas faxed by Plaintiff to counsel for Defendants on August 22, 2024. In support, Defendants state as follows:

1. On Thursday, August 22, 2024 at 9:34 AM, Plaintiff faxed nine (9) Subpoenas ("August 22, 2024 Subpoenas") to Defendants's counsel commanding, without providing notice, that certain individuals including Parties and non-parties (i.e., current and former employees of the Franklin Area School District and current and former students of the District) produce documents, information, or objects on September 13, 2024.

2. A copy of the August 22, 2024 Subpoenas and their accompanying fax is attached as Exhibit A to this Motion to Quash.

3. Plaintiff failed to provide notice of the Subpoenas to Defendants as required by Rule 45(a)(4) of the Federal Rules of Civil Procedure.<sup>1</sup> The purpose of this provision is to afford other parties an opportunity to object to the production or inspection, or to serve a demand for additional documents or things.<sup>2</sup>

4. In not providing notice as required, Plaintiff has subjected Defendants to undue burden, failing to allow for a reasonable time to object or comply.

5. Plaintiff also failed to include the text of Fed. R. of Civ. P. 45(d)<sup>3</sup> and (e)<sup>4</sup>, setting out the witnesses' rights and duties in responding, objecting, or moving to quash the subpoena, as required by law.<sup>5</sup>

6. In addition to the undue burden caused by lack of notice, the Subpoenas themselves subject Defendants to additional undue burden.

7. The Federal Rules require every Subpoena to specify the categories of documents sought for production or inspection<sup>6</sup>. However, Plaintiff's Subpoenas are illegible (handwritten in cursive) and create an undue burden with regard to the difficulty in attempting to decipher what exactly is being commanded for such production and inspection.

8. It is unclear as to what Plaintiff is commanding and how the served parties, which include Defendants Thomas and Holoman, are expected to comply with such requests.

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<sup>1</sup> See Fed. R. Civ. P. 45(a)(4) ("If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party).

<sup>2</sup> *Id.* at committee note, 1991 amendments, Subdivision (b).

<sup>3</sup> *Id.* at (d) ("Protecting a Person Subject to a Subpoena; Enforcement).

<sup>4</sup> *Id.* at (e) ("Duties in Responding to a Subpoena).

<sup>5</sup> *Id.* at (a)(1)(A)(iv) ("Every subpoena must...set out the text of Rule 45(d) and (e)).

<sup>6</sup> *Id.* at (a)(1)(iii).

9. The deficiencies contained in Plaintiff's subpoenas create an undue burden on Defendants and all other individuals subpoenaed as the illegible requests contained in the subpoenas place the burden on Defendants and those served to guess what Plaintiff is requesting.<sup>7</sup>

WHEREFORE, the Franklin Area School District respectfully requests that the Court quash the August 22, 2024 Subpoenas.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

BY: /s/Robert D. Zaruta

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<sup>7</sup> *Id.* at (d)(1) ("A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena").